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25-ORD-262

September 18, 2025

In re: Matthew Johnson/Kentucky State Police

Summary: The Kentucky State Police (“KSP”) subverted the intent of the Open Records Act (“the Act”), within the meaning of KRS 61.880(4), by delaying access to requested records beyond five business days from receipt of the request.

Open Records Decision

On July 14, 2025, Matthew Johnson (“Appellant”) submitted a request to KSP for five categories of records. On July 21, 2025, KSP sent a letter explaining that it needed “additional time in which to conduct a diligent search for all potentially responsive records; review each record to determine responsiveness; and make necessary redactions of any exempt information,” but that it would “provide a final response to your request, including the responsive and nonexempt records, on or before August 18, 2025.”¹ On August 19, 2025, having received no further response from KSP, the Appellant initiated this appeal.

Under KRS 61.880(1), a public agency has five business days to fulfill or deny a request for public records. This period may be extended if the records are “in active use, in storage or not otherwise available,” but the agency must give “a detailed explanation of the cause . . . for further delay and the place, time, and earliest date on which the public record[s] will be available for inspection.” KRS 61.872(5). Under KRS 61.880(4), a person may petition the Attorney General to review an agency’s action if the “person feels the intent of [the Act] is being subverted by an agency short

¹ KSP explained in its July 21 letter that likely redactions included “personal information under KRS 61.878(1)(a), any information the disclosure of which would pose a concrete risk of harm to any ongoing investigations under KRS 61.878(1)(h), and other information that may be exempt under KRS 61.878(1)(k).”

of denial of inspection, including but not limited to . . . delay past the five (5) day period described in [KRS 61.880(1) or] excessive extensions of time.”

Here, KSP notified the Appellant that the records would be made available on or before August 18, 2025. However, as of August 19, 2025, KSP had not provided any of the requested records. The Office has found that a public agency does not comply with KRS 61.872(5) when it notifies the requester of the earliest date on which requested records would be available but then misses its self-imposed deadline. *See, e.g.*, 25-ORD-086; 23-ORD-079; 21-ORD-011. As a result, KSP subverted the intent of the Act by delay and excessive extensions of time, within the meaning of KRS 61.880(4), when it failed to make a final disposition of the Appellant’s request by the date on which it said the records would be made available.²

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under KRS 61.880(3), the Attorney General shall be notified of any action in circuit court, but shall not be named as a party in that action or in any subsequent proceedings. The Attorney General will accept notice of the complaint emailed to OAGAppeals@ky.gov.

**Russell Coleman
Attorney General**

/s/ Matthew Ray
Matthew Ray
Assistant Attorney General

² On appeal, KSP states that on September 5, 2025, it “made available over 5,500 pages of responsive, nonexempt records” and asked the Office to render the appeal moot under 40 KAR 1:030 § 6. Because the Appellant brought this appeal claiming KSP had unreasonably delayed his access to the records, the appeal is not moot with respect to KSP’s delay. *See, e.g.*, 24-ORD-015 n.3.

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Distributed to:

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